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CORPORATE POLICIES IN THE REPUBLIC OF KOREA

Report prepared by

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Note:

Through accession of the German Democratic Republic to the Federal Republic of Gemany with effect from 3 October 1990, the two German States have united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation "Germany".

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CORPORATE POLICIES IN THE REPUBLIC OF KOREA

INTRODUCTION

The Republic of Korea has attained highly successful economic growth in the past couple of decades, thanks to the concerted efforts of all economic agents. The history of the country's economy can be illuminated from many different angles, but for the present purposes an examination of the evolution of corporate policies in the course of economic development would seem the most expedient approach. Corporate policies are the instrument of government and business, the two principal actors in economic growth. It is through such policies that these actors interact in response to changing economic conditions.

Following independence in 1945 western capitalism and democratic political institutions were introduced in the Republic of Korea, where feudalistic bureaucracy had been the rule for centuries. A harmonious combination of capitalism and democracy could not be achieved effectively since the country was devastated by the Korean War. It later realized its national goal of economic development under the direct supervision of the Government. In an attempt to achieve rapid growth, economic activity in the private sector was directed more by government will than by individual choice. Consequently, government intervention in the private sector became ubiquitous, and, despite private corporate ownership, Korean firms could not be considered capitalistic in the true sense of the word.

Up to the 1970s the Government of the Republic of Korea took charge of the overall operation of the economy, with private firms playing a rather passive role. In general, corporate policies during this period purported to provide direct assistance, while imposing regulations, to selected industries and firms. Moreover, from 1975 to 1979 in the aftermath of the oil crisis, the Korean Government tightened its control of the economy by enforcing widespread price controls.

As the economy expanded and became more complicated and diversified, however, direct government regulation grew less effective and was often detrimental to autonomous industrial growth. The rationale for government intervention was further weakened by improvements in the capabilities of the private sector. Moreover, the growth-first policy widened the imbalances among industries, regions and income classes and occupations.

In these circumstances, the Korean Government realized that the market mechanism rather than government planning should play the key role in allocation of resources. The Government then addressed these issues by launching a "liberalization" policy in various economic areas, while bringing the importance of equity or balance to the forefront. Most notably in the area of industrial policy, it expanded the scope of import liberalization and promoted competition among domestic firms. Accordingly, the importance of industrial organization loomed large, while previously the upgrading of industrial structure had been dominant.

This particular period signified a turning point in which the "government-led" economy, prevailing up to the 1970s, began to be transformed into a market economy. The basic tenet of corporate policies changed also from direct preferential intervention to indirect general incentives. This fundamental shift in policy orientation has accelerated in line with the growing demand for political and economic democratization since 1988.

It was only a beginning, however. The Republic of Korea now faces the task of restructuring its economy to prepare for becoming an advanced country early in the next century. This will require not merely a change in industrial structure to carry out such a transformation physically, but will also call upon an array of institutional and organizational innovations necessary for creating a full-fledged free-market economy.

In view of both external and internal factors, the Republic of Korea cannot continue its growth along a path extrapolated in linear fashion from its past. It must launch itself into a new dimension in which its economy is run by a new modus operandi, putting more emphasis on the market principle. This implies that corporate policies should be recast to reflect this functional change in the relationship of government-business. In particular, the Government should gear up to a rationalization of its administrative organization commensurate with the changes anticipated in its future functions and roles. In doing so, it will have to draw on its past experience with corporate policies. Subsequently, the efforts made may in turn offer an example to other countries.

This paper will first examine some of the policy issues regarding direct foreign investment and technological licensing. This will be followed by a brief discussion of the recent trends in industrial support and economic regulation. The major characteristics of industrial organization will then be illustrated followed by a sketch of the evolution of competition policy. Finally, an attempt will be made to explore the implications of the Korean experience.

I. DIRECT FOREIGN INVESTMENT AND TECHNOLOGICAL LICENSING

The role of foreign technology has been essential to the development of domestic technological capability in the Republic of Korea. There are many ways in which foreign technology is transferred, but direct foreign investment (DFI) and technological licensing (TL) are the more important ones. In 1960, the Foreign Capital Inducement Act came into force to attract foreign investment. This Act has been amended several times, reflecting changes in the underlying philosophy of government policy toward foreign capital. Before going into the details of the law, an overview of DFI and TL will be given.

Although table 1 does not emphasize the trend, on a total approval basis, the inflow of DFI had increased very rapidly until 1973, when the Government applied stricter criteria in allowing DFI. The flow of DFI thereafter stagnated until the end of the 1970s, then began increasing again rapidly in the 1980s owing to the change in the law and the improved investment environment. The flow of TL shows a similar pattern. Nevertheless, the share of DFI in the net flow of long-term private capital was not more than 5 per cent during the 1980s, while it was around 60 per cent for Singapore and 70 per cent for Taiwan, Province of China, during the same period.

Table 1. Trends of DFI and TL, 1962-89 (total approval basis)

	DFI		TL	
	Number of cases	Value	Number of cases	Royalties
1962 - 66	39	47.4	33	0.8
1967 - 71	360	218.6	285	16.3
1972 - 76	867	879.4	434	96.5
1977 - 81	251	720.6	1 225	451.4
1982 - 86	579	1 767.7	2 078	1 184.9
1987 - 89	1 074	4 616.2	2 151	2 129.6
TOTAL	3 170	7 067.1	6 206	3 879.5

Note: The value of DFI and royalty payments are in millions of current $US.

The relative stagnation of DFI in the Republic of Korea during the 1970s and early 1980s may be ascribed to the country's policy toward DFI. In this period, the Government adopted strict policies to regulate the quality of DFI, resulting in greater reliance on loans as a source of foreign capital and on TL as a source of technology. This policy in effect gave rise to the unpackaging of capital and technology.

Table 2 shows that Japan was by far the largest source of DFI and TL in the Republic of Korea, with the United States a distant second. These two countries accounted for more than two thirds of the total in both types of foreign investment. A recent survey has shown, however, that Japanese investment tended to be concentrated in low-technology industries, in contrast to American investment.

Table 2. Distribution of DFI and TL by Country (1962-89)

	United States	Japan	Germany Fed. Rep	United Kingdom	France	Others	TOTAL
Number of TL	1 477 (25.6)	2 974 (51.6)	320 (5.6)	198 (3.4)	236 (4.1)	557 (9.7)	5 762 (100.0)
Number of DFI	717 (22.7)	1 922 (60.6)	99 (3.1)	51 (1.6)	39 (1.2)	342 (10.8)	3 170 (100.0)
Value of DFI	1 940.9 (27.5)	3 553.7 (50.3)	223.4 (3.2)	181.6 (2.6)	141.9 (2.0)	1 025.6 (14.5)	7 067.1 (100.0)

Notes: The value of DFI is in millions of current $US.
Figures in parentheses denote percentage shares.

Table 3 shows that until 1989, the manufacturing sector received 78.9 per cent of DFI and 90.7 per cent of TL in terms of the number of cases approved. Among the manufacturing subsectors, "strategic industries", including oil refining and chemicals, electric and electronic machinery, general machinery, and transportation equipment, absorbed the largest portion of foreign capital. These four industries accounted for 56.3 per cent and 78.2 per cent of the total number of DFI and TL, respectively. The influence of government policy is apparent in this pattern of industrial distribution of foreign investment.

Returning to the discussion of government policy toward foreign investment, the original Foreign Capital Inducement Act provided tax preferences, equal treatment with domestic firms, guarantees of profit remittance, and withdrawal of principal for foreign investors. Furthermore, incoming foreign firms were not required to find domestic partners for the venture, provided that they caused no injuries to the national interest. This liberal policy toward foreign investment lasted until 1973, when this Act was amended to control the quality of foreign investment. The Act accorded a higher priority to joint ventures than to direct foreign investment. At the same time, the General Guidelines for Foreign Direct Investment were adopted.

Table 3. Distribution of DFI and TL by Sector (1962-89)

	DFI		Number of Cases of TL
	Number of Cases	Value	
Agriculture and Fisheries	80 (2.4)	35.2 (0.5)	31 (0.5)
Mining	43 (1.3)	14.5 (0.2)	- -
Manufacturing	2 501 (78.9)	4 565.7 (64.6)	5 172 (90.7)
Textiles & fibre	223	258.1	316
Oil refining & chemicals	316	1 019.0	999
Metals	171	165.4	354
General machinery	419	426.2	1 540
Electric & electronic machinery	559	1 123.4	1 322
Transportation equipment	113	643.3	185
Services	466 (14.7)	2 451.8 (34.7)	499 (8.8)

Note: The value of DFI is in millions of current $US.
Figures in parentheses denote percentage shares.

The Guidelines specified the following projects as ineligible for approval: (a) projects disrupting domestic demand and supply of raw materials and intermediate products; (b) projects competing in overseas markets with domestic firms; (c) projects aiming solely at providing financial support for existing domestic firms; and (d) projects intended solely for profiting from land use. The Guidelines also limited the foreign participation ratio to 50 per cent, except in the following cases: (a) exclusively export-oriented projects that did not compete with domestic firms in the overseas markets; (b) technology-intensive projects that produced important export- or import-substituting products; (c) desirable projects by multinationals investing only in the form of wholly-owned subsidiaries in other countries; (d) projects that contributed to the rationalization of the domestic industrial structure and were beyond the capacity of domestic investors, owing to huge capital investment requirements or the advanced technology involved; (e) projects from a country expected to increase substantially its future participation; (f) projects by nationals abroad; and (g) projects in the Free Export Zones and other specific industrial estates designated by the Government. In addition, local participation of more than 50 per cent was required for the following types of foreign investment: (a) labour-intensive projects, (b) bonded processing projects, (c) projects dependent on domestic resources for major raw materials, and (d) projects oriented toward the domestic market.

The Government of the Republic of Korea has gradually liberalized its policy toward DFI since 1980. The Foreign Capital Inducement Act was amended in 1983 to encourage DFI. One of the most important changes was the introduction of a "negative list" system for determining which industries were open to DFI. Under this system, only those industries on the list were prohibited or temporarily restricted from foreign investors, while all other industries were eligible for DFI. In 1990, of the 999 industries included in the Korean Standard Industrial Classification System, only 208 industries (51 prohibited and 157 restricted) appeared on the negative list. The proportion of liberalized industries (791) has now reached 79.2 per cent, a substantial increase from the 521 industries permitted under the old positive list system.

Prohibited industries, completely closed to DFI, include those: (a) run by the Government or public enterprises, such as water supply and sewage, the postal service, the telecommunications service, railway transportation, and cigarette and red ginseng manufacturing; (b) harmful to public health or to the environment; (c) detrimental to national culture and social custom, such as gambling; and (d) designated by Presidential decree, such as newspaper publishing, radio broadcasting, and grain cultivation.

Restricted industries are not open to DFI in principle, but exceptions may be made on a case-by-case basis. Exceptions include industries which (a) receive special support from the Government, (b) are energy-intensive or consume a significant amount of imported raw materials, (c) generate pollution, (d) produce luxury goods, (e) affect the livelihood of farmers and fishermen, and (f) invest in infant industries deemed to require protection for a certain period of time according to industrial policy.

Another significant change was the adoption of an automatic approval system. Projects which (a) are not on the negative list, (b) have a foreign equity share of less than 50 per cent, (c) involve foreign investment amounting to no more than 1 million United States dollars, and (d) do not require tax exemption will be immediately and automatically approved. Furthermore, restrictions on the proportion of equity owned by foreign investors have been relaxed to a great extent, whereas various tax advantages given exclusively to all foreign investments have been reduced considerably in order to bring about fair competition between foreign and domestic firms.

Technological licensing is also covered by the Foreign Capital Inducement Act. The 1966 amendment of the Act made all TL subject to prior approval by the Government. The following general guidelines were introduced to supplement the Act: (a) those projects that promote exports, develop intermediate products for capital goods industries, or have a diffusion effect on other sectors were given higher priority; (b) the royalty payment was not to exceed 3 per cent of sales; (c) contract expiration was to be less than three years for the manufacturing sector; and (d) export restrictions were prohibited.

Since the early 1970s, however, restrictions on TL have gradually been relaxed. In 1979, the ceiling on royalties, the limit on contract duration, and the prohibition of export restrictions were abolished. Nevertheless, TL falling under the following categories was still not approved: (a) those aiming primarily at the licensing of an exclusive sales right, (b) those

intended primarily for the sales of raw materials or parts, (c) those including substantially unfair practices such as restrictions on export conditions, and (d) those intended to introduce technologies equivalent to those protected by the Government for domestic development.

In the late 1970s, the administrative procedure for approving TL was simplified to allow automatic approval for those arrangements meeting certain quantitative criteria. Moreover, in 1984, the approval system was replaced by a reporting system. Firms wishing to import foreign technology need now only report their intention to the ministry concerned. If the ministry makes no objections and requests no additional information or changes within 20 days after the report has been filed, the TL in question will be regarded as accepted.

The Government planned to accelerate further its liberalization policy toward foreign investment starting in 1991. The approval system for DFI would be phased out gradually through three stages by 1993, to be replaced completely by the reporting system, under which a proposed DFI, unless it related to restricted or prohibited industries, would be approved automatically after 30 days. However, within the category of liberalized industries, (a) weak domestic industries specifically designated for small- and medium-sized firms, such as umbrellas and bags, (b) distribution industries including retailing, and (c) industries designated for industrial rationalization will continue to be subject to approval, as in the present system.

At the same time, the Government will not accept proposed DFI, if it threatens to: (a) disrupt national security or public order, (b) be detrimental to public health (including the environment), national culture or social custom, (c) establish a monopoly or a market-dominating position in the domestic market, or (d) violate the Act Concerning Monopoly Regulation and Fair Trade (hereafter, called the "Fair Trade Act").

All in all, when the proposed liberalization programme has been completed in 1993, almost 99 per cent of the manufacturing industries, or 80-90 per cent of all industries, will be covered by the reporting system. In return for the broadened scope of liberalization, however, the Korean Government will further curtail tax deductions and exemptions for DFI to let foreign investors stand on an equal footing with domestic competitors.

The business conduct of all firms in the Republic of Korea, whether foreign or domestic, is subject to Korean law. In addition, international contracts concerning (a) technical licensing, (b) loans, (c) joint ventures, (d) import agency, (e) copyright, (f) long-term import and (g) technological consulting services are covered by two legal systems. The technical details for each type of contract are dictated by relevant individual laws, including the Foreign Capital Inducement Act, while their anti-competitive or unfair practices clauses are covered by the Fair Trade Act.

The Fair Trade Act requires all business firms and trade associations to report to the Fair Trade Commission (hereafter, "FTC") within 30 days of concluding international contracts. The FTC is empowered to take necessary measures to amend those clauses entailing undue cartel activities, unfair

business practices or resale price maintenance. Table 4 shows that the FTC has corrected 1,546 contracts, 24.5 per cent of a total of 6,316 which it examined during the period 1981-1989. The share of technological licensing in the total number of contracts examined was 64.4 per cent, but accounted for 83.1 per cent of the total number of amended contracts.

Table 4. International Contracts Reported to the FTC (1981-89)

	Reported	Amended	Approved
Technological Licensing	4 070	1 286	2 784
Loans	170	6	164
Joint Ventures	1 043	170	873
Import Agency	395	83	312
Copyright	638	1	637
TOTAL	6 316	1 546	4 770

This high frequency of amendments attests to the Fair Trade Act's role in strengthening the bargaining power of Korean firms vis-à-vis their foreign contractual counterparts. Originally, when this Act was first drafted in the late 1970s, it was thought that its application to international contracts would dampen the inflow of foreign capital. However, the records clearly show that this has not been the case.

As indicated earlier, Japan and the United States have been the two largest sources of technological licensing in Korea. Table 5 shows that Japan and the United Statess accounted for 47.9 per cent and 27.2 per cent, respectively, of the total number of technological licensing contracts. The share of the number of amended TL contracts in the total is 31.6 per cent, 34.6 per cent in TL with Japan and 29.5 per cent for the United States.

Table 5. Distribution of TL reported to the FTC by country (1981-89)

	Reported	Amended	Approved
Japan	1 951	676	1 275
United States	1 108	327	781
Germany, Fed. Republic of	245	68	177
Others	766	215	551
TOTAL	4 070	1 286	2 784

International business contracts will play a more important role as Korea expands her economic interface with foreign firms in the coming years. In order to facilitate the inflow of foreign capital and technology, therefore, the Government has revised the Guidelines for Unfair Business Practices in International Contracts, in July 1990. These guidelines specify the patterns of and criteria for unfair business practices for each type of international contract.

Although unfair business practices are most conspicuous in technological licensing, all contracts reported to the FTC until 1989 will be investigated in this study, since clauses prescribing such practices can be stipulated in any type of international contract. The results are summarized in table 6. As a single contract sometimes contained more than one unfair clause, the figures do not correspond to the number of contracts amended. In any case, the incidence of unfair clauses by country was more or less the same as the distribution seen in table 5, namely, 49.4 per cent and 27.7 per cent for Japan and the United States, respectively. The patterns of unfair practices were not very different among countries. The most common were restrictions on geographic markets, restrictions on the use of the transferred technology after the expiration of the contract, and requirements for the unilateral transfer of improved technologies to foreign investors.

Table 6. Unfair clauses in international contracts (1981-89)

	Japan	U.S.	Others	TOTAL
Restrictions on raw materials and parts	115	36	46	197
Restrictions on geographical markets	352	133	146	631
Restrictions on marketing channels and methods, sales quantities and prices	30	18	24	72
Restrictions on handling competing products or technologies during the contract period	35	27	15	77
Restrictions on handling competing products or technologies after the expiration of the contract	1	-	1	2
Restrictions on utilizing transferred technologies after the expiration of the contract	207	149	96	452
Unilateral determination of royalties	1	-	-	1
Forced royalties on non-contract technologies	7	12	3	22
Undue delay of technology transfer	-	-	1	1
Unilateral determination of mandatory sales promotion expenditures	-	5	5	10
Unilateral determination of arbitrators	-	2	1	3
Unilateral transfer of improved technologies	163	228	184	753

II. INDUSTRIAL SUPPORT AND ECONOMIC REGULATIONS

As earlier mentioned, the Government of the Republic of Korea has intervened quite extensively in the private sector in order to stimulate industrial growth. One such type of intervention was the business licensing system, which not only restricted the number of firms in specific industries but also regulated their business activities. Such an important restriction was understood as inevitable for allocating limited resources in the initial period of economic development. At the same time, the Government provided various programmes of industrial support and incentives for these firms.

Some of these programmes were put into effect with the force of general laws for industrial policy relating to banking, credit, tax, and trade. In addition, the Government introduced regulatory laws designed specifically for individual industries in order to tailor policy measures more effectively to their particular needs. Such laws numbered more than 700. Of course, not all of these laws were necessarily aimed at economic regulation, but contained elements of social regulation as well. It cannot be denied, however, that economic regulation, mostly in the form of government-imposed restraint of competition, was the hallmark of the development era in the Republic of Korea.

With the rapid economic growth and the remarkable expansion of corporate capabilities, economic regulations have now begun, in fact, to contain the engine of growth. Concurrently, industry-specific preferential support has lost much of its rationale as the economy has come under greater regulation under the market principle. Moreover, such a policy could engender criticism of "industrial targeting" by foreign trading partners. Based on this perception and further aided by the ongoing liberalization movement, the Government of the Republic of Korea has embarked upon economy-wide deregulation policies since the mid-1980s.

One of the first such moves was the enactment of the Industrial Development Act in 1986. This Act nullified seven previous acts, covering machinery, shipbuilding, electronics, iron and steel, non-ferrous metals, petrochemicals and synthetic fibres. The new Act's industrial coverage is far more extensive, covering practically all manufacturing industries. Nevertheless, the Act represents a new philosophy of industrial policy. First of all, when a certain industry is designated for "rationalization", it can benefit from government assistance and engage in necessary, concerted industry-wide activities, but this applies only up to three years. Thus the Act is a sharp contrast to previous laws that specified no such time limit.

Furthermore, rationalization measures are differentiated for two different categories of industries. The first category contains industries in which: (a) productivity can be raised substantially through improvements in technology or equipment; (b) resources can be saved and value-added increased considerably; and (c) common bottlenecks in production and management can be remedied. The second group includes industries in which inadequate managerial size, production scale or method would long persist owing to changes in the economic environment, including the industrial structure. Industries characterized by the first designation are commonly termed "sunrise" industries, while those satisfying the second description are "sunset" industries.

Rationalization programmes for sunrise industries must include plans for (a) technological development, (b) upgrading of product quality, (c) optimization of production scales, (d) product specialization by firms, and (e) other necessary cartel activities. Those programmes for sunset industries must include plans for (a) the disposal of excess capacity, (b) the restriction of increases and renovations in production facilities, (c) the optimization of managerial size, (d) production scale or production method, (e) business combinations such as mergers and acquisitions, (f) changes in business lines, and (g) other necessary cartel activities. One can, therefore, infer that rationalization programmes for sunrise industries may have fewer anti-competitive effects than those for sunset industries.

Since July 1986, eight manufacturing industries have been designated for rationalization: (a) fabrics, (b) automobiles, (c) alloy iron, (d) diesel engines for vessels, (e) heavy electrical machinery, (f) heavy construction equipment, (g) dyeing and (h) fertilizer. Of these, the rationalization programme for fertilizer was approved later than others and remains effective until the end of 1990. Rationalization programmes for all the other industries except fabrics were terminated in 1989. There are several reasons for the exception of fabrics. The fabric industry in the Republic of Korea, a major export industry, is dominated by a large number of small- and medium-sized firms which suffer from chronic excess capacity and technological stagnation. Moreover, most of these firms are concentrated in a particular area, so that their bankruptcy would entail serious political repercussions as well.

Although these eight industries vary in such attributes as capital intensity and potential for growth, they display the same characteristics of excess capacity. Consequently, one common trait of their rationalization programmes has been the prohibition of new entrants. This prohibition represents the most serious form of institutional entry barrier, and hence, may be justified only by an overriding public interest. Fortunately, all of these industries have shown a fair sign of recovery or growth.

So far, the Government has been quite successful in designating only a limited number of rationalization industries and also in maintaining the three-year time limit. This performance reflects the Government's will to abide by the market principle and signifies a major departure from past industrial policy. In so far as the primary justification for government intervention is the duplication of investments by firms, more attention will be given to inducing the autonomous adjustment of private firms through the dissemination of relevant information.

Shortly after the Industrial Development Act was put into effect, the Government of the Republic of Korea began to deregulate a number of important industries. Since economic regulation tends to protect the vested interests of "regulated" firms vis-à-vis potential entrants, these regulated firms may oppose any serious proposal for deregulation. Government regulatory authorities are also disinclined to deregulate, since they may consequently lose their administrative power. It is, therefore, a difficult task to dissolve this community of interests formed by government and business.

Deregulation, or rather rational reformulation of regulation, is essential for enhancing not only economic efficiency but also for achieving social transparency. As the Uruguay Round approaches its final stage, deregulation, coupled with import liberalization, is emerging as an imminent and practical task for the Government. Successful deregulation will also bring about a "small government", in the sense that the Government efficiently does only what it should.

In the Republic of Korea, the Fair Trade Commission initiated deregulation policy because of its close relation with fair trade policy. Under the aegis of the Economic Planning Board, the most powerful agency for overall economic policy in the country, the FTC has been quite successful in ironing out deregulatory measures through consultations with other ministries concerned. The need for deregulation has been accentuated by a series of public hearings organized by the Korean Development Institute, illustrating the value of open debates in reconciling diverse opinions and conflicting interests.

Industries for which the Government has already implemented or prepared deregulatory measures include: alcoholic beverages, wheat flour, prepared animal feeds and other bean-based products, drugs and medicines, cosmetic products, agricultural chemicals, coal briquettes, petroleum refining, freight transportation, local and long-distance passenger bus transportation, automobile repair and inspection services, warehousing, maritime transportation, ocean-going fisheries, hotels, telecommunications, construction, technological consulting services, financing, insurance and stock brokerage. In addition, air transportation, tourist services, and professional services will be dealt with. Comprehensive deregulation will impose tremendous adjustment costs upon the country's economy, but is an inevitable task that the Republic of Korea must undertake for a second take-off. It is quite encouraging that in some consumer goods industries, the effects of deregulation can already be seen in the improvement of product quality and the lowering of prices.

III. INDUSTRIAL ORGANIZATION AND COMPETITION POLICY

A. Market structure and economic power

The basic strategy of rapid economic growth has tended to give higher priority to large rather than small- and medium-sized firms. However, this policy has led inevitably to monopolistic or oligopolistic market structure, concentration of economic power, and disruption of market functions. In order to cope with these problems, the Government has enforced a series of policies with varying degrees of success. Some key aspects of Korean industrial organization will be illustrated before policy measures are discussed.

Table 7 shows that the share of top-bracket firms of the total shipments or employment in the manufacturing sector had increased greatly in the 1970s. For example, the overall concentration ratio of the top 100 firms in terms of shipments increased from 44.6 per cent in 1970 to 46.8 per cent in 1982. The magnitude of concentration seems to be even more prominent considering that the number of firms substantially increased throughout this period. This observation tallies with government policy which strongly encouraged the establishment of large firms to take advantage of economies of scale in both heavy industry and the chemical industry during the 1970s. Since the early 1980s, however, overall concentration ratios, especially in terms of shipments, have decreased quite markedly, even taking into account a sharp decrease in the relative numerical weight of top-bracket firms. This may be partly attributable to the fact that during this period, medium-sized firms had grown relatively faster in the general machinery and electronics industries.

Table 7. Trends in overall concentration ratios (%)

	By shipments		By employment		Top 100 firms as percentage of manufacturers
	Top 50	Top 100	Top 50	Top 100	
1970	33.8	44.6	15.4	28.7	0.41
1977	35.0	44.9	16.9	23.9	0.37
1982	37.5	46.8	16.0	21.9	0.28
1987	30.9	38.9	14.5	19.8	0.19

The monopolistic and oligopolistic market structure seems to be the most obvious at the level of the commodity market. If a market in which the top three firms account for less than 60 per cent of the total share is defined as a competitive market, the ratios of such markets were around 15 per cent in terms of the number of commodities and 35 per cent in terms of shipments. It is noteworthy that the total number of commodity markets had increased by 618 between 1970 and 1977, whereas the number of competitive markets had increased by only 67. In other words, the 1970s may be characterized as a period in which the fast growth of the manufacturing sector was accompanied by an increase in monopolistic and oligopolistic commodity markets. This can be expected from a small economy at its initial stage of development.

Since the early 1980s, however, the trend has been reversed. Between 1977 and 1987 the number of commodity markets classified as monopolies and their share in total manufacturing shipments had declined substantially. More or less the same result may be found in cases of duopoly. This implies that new entries have occurred quite actively in markets which were previously monopolistic or duopolistic. Moreover, the shares of oligopoly and competition have increased both in terms of the number of markets and of

shipments. Therefore, by and large, the market structure of the manufacturing industries would appear to have become more competitive with the maturation of the Korean economy. Such a sharp contrast between the 1970s and 1980s is found in many other respects as well and not only in the economic sphere.

Table 8. Trends in commodity market structure

		Monopoly	Duopoly	Oligopoly	Competitive	TOTAL
1970	No. of Markets	442	279	495	276	1 491
		(29.6)	(18.2)	(33.2)	(18.5)	(100.0)
	Shipments (%)	8.7	16.3	35.1	35.9	100.0
1977	No. of Markets	667	425	674	343	2 109
		(31.6)	(20.2)	(32.0)	(16.3)	(100.0)
	Shipments (%)	16.3	11.0	33.9	38.8	100.0
1982	No. of Markets	533	251	1 071	405	2 260
		(23.6)	(11.1)	(47.4)	(17.9)	(100.0)
	Shipments (%)	11.4	6.6	50.6	31.4	100.0
1987	No. of Markets	533	277	1 173	655	2 638
		(20.2)	(10.5)	(44.5)	(24.8)	(100.0)
	Shipments (%)	7.8	7.7	40.2	44.3	100.0

Notes: Monopoly = CR1 > 80%, S1/S2 < 10, duopoly = CR2 > 80%, S1/S2 < 5.0, S3 < 5%, oligopoly = CR3 > 60%; and competitive = CR3 < 60%.
CRi and Si indicate, respectively, the i-firm market concentration ratio and the shipment of the top i-firm(s).
Figures in parentheses denote percentage shares of respective types of market structure in the total number of all commodity markets.

In addition to the generally high degree of concentration, competition was further constrained by various trade associations in the 1970s. Trade associations, whose number increased from 467 in 1970 to 1,026 in 1989, acted as a channel between the Government and individual firms in implementing the Government's industrial policies. Most trade associations, such as cooperatives of small- and medium-sized firms and exporters' associations, were established mandatorily by special laws. In many cases, these trade associations had big corporations in their membership, a factor not originally intended when the special laws were legislated.

It was generally pointed out that most trade associations tended to act collectively with questionable economic justification in determining price, adjusting production, restricting the number of new entrants into the industry. Other trade associations which were organized voluntarily, at least ostensibly so, engaged more or less in the same activities. These group actions were taken mostly under government administrative guidance, sometimes with the power of ad hoc laws for individual industries, or at least tacit understanding of the Government. This practice was accepted as a convenient means by both government and business, since the former had only to deal with a small number of trade associations while individual firms did not have to compete with one another.

A salient characteristic of the industrial organization of the Republic of Korea is the concentration of economic power, embodied in and symbolized by the "jaebol". The jaebol refer to the conglomerate business groups, the majority of whose component firms are monopolistic or oligopolistic in their respective markets, practically owned and controlled by particular individuals or close family members. Hence, the jaebol are characterized both by market concentration and by concentration of ownership.

Table 9. Trends in the share of business groups in total employment and shipments (% of total)

Business groups by size	Employment			Shipments		
	1977	1982	1987	1977	1982	1987
Top 5	9.1	8.4	9.9	15.7	22.6	22.0
Top 10	12.5	12.2	11.9	21.2	30.2	28.2
Top 20	17.4	16.0	15.1	29.3	36.6	33.9
Top 30	20.5	18.6	17.6	34.1	40.7	37.3

The relative sizes of business groups are shown in table 9. The share of the 30 largest groups in the manufacturing sector reached 17.6 per cent in 1987 in terms of employment and 37.2 per cent in terms of the value of shipments. The striking difference between their shares of shipments and of employment might be primarily the result of their capital-intensive method of production but partially their market power to manipulate commodity prices to some extent. Recently, their share of total shipments has tended to increase, while that of total employment has generally decreased.

Business groups could not expand rapidly by relying only upon internal growth. Additionally, they had not only to acquire existing firms, but also to establish new ones. Table 10 shows that the top 30 business groups owned 4.2 subsidiaries each on the average in 1970. This number jumped to 14.3 in 1979. It is worth noting that the number of new establishments was far greater than the number of acquisitions during this period, specifically, 202 in contrast to 135. During the same period, 1970 to 1979, the total number of manufacturing firms increased 1.3 times, while the number of subsidiaries of the top 30 business groups increased 3.4 times.

Table 10. Business integration of the 30 largest business groups, 1970-1982

	New establishment	Acquisitions	Internal mergers	Net increases	Number of subsidiaries
1970				126	
1971-79	202	135	27	303	429
1980-82	30	25	31	-27	402

Owing to the recession at the end of the 1970s and the consequent rationalization of business groups, the number of their divestures in the early 1980s surpassed the number of new entries, and business groups ended up with an average of 13.4 subsidiaries in 1982. In other words, for business groups, the 1970s witnessed an expansionary period, whereas the early 1980s brought consolidation. However, in the mid-1980s, business groups took over a number of failing firms and public enterprises, on the one hand, and began to establish new firms for industrial restructuring, on the other. Consequently, the average number of subsidiaries for the 30 business groups increased again, to 17.1 in 1989.

A fundamental source of the economic power of large business groups is their position in individual commodity markets. In 1987, the top 30 business groups competed in selling 1,499 commodities in 837 different goods markets. Their market positions are summarized in table 11. In 103 markets, a single business group had a monopolistic share of more than 80 per cent and, in 232 markets, a dominant share of 40-60 per cent. If we consider only the ranking of their market shares, the number of markets in which a single business group was ranked third or higher amounted to 941, or 62.3 per cent of the total cumulative number of markets where they participated.

Table 11. Market positions of the 30 largest business groups

Business groups by size	Market shares (%)					Ranking of market shares			
	0-20	20-40	40-60	60-80	80-100	1st	2nd	3rd	4th+
Top 5	345	141	82	38	42	224	133	68	223
Top 10	494	186	98	47	64	295	177	104	313
Top 20	738	250	136	69	94	410	256	141	449
Top 30	873	291	151	81	103	475	296	170	558

Almost all business groups in the Republic of Korea have their roots in the manufacturing sector, although many have recently expanded their activities into the financial sector as well, including banking, insurance, and stock brokerage services. Nevertheless, Korean business groups differ from the pre-war Japanese zaibatsu centred around banks in two ways. Firstly, the Republic of Korea's previously nationalized commercial banks were taken over by business groups only in 1981; secondly, no single legally acknowledged "identical person" was allowed to own more than 8 per cent of any bank's total stock. However, there has been no legal ceiling regarding ownership of local banks, and each is practically controlled by one single business group. Currently, 11 out of 27 stock brokerage companies are owned by individual business groups; by and large, the same is also true of life insurance companies. In all, 30 business groups own a total of 47 financial institutions.

The jaebol have yet another characteristic - the concentration of ownership. The most general method of concentrating ownership is intercompany shareholding. In 1984, the average intercompany shareholding ratio for the 30 largest business groups was 46.5 per cent. Subsidiaries of business groups are practically owned by particular individual shareholders and other firms they control. For example, table 12 shows that in the case of the top 10 business groups, an average of 46.4 per cent of total company shares are owned by particular individual shareholders and the firms they control. At the same time, less than 30 per cent of their subsidiaries have gone public in the stock market, and account for less than 60 per cent of business groups' total equity, on average. It may therefore be assumed that the jaebol still maintain quite a closed ownership structure.

Table 12. Ownership structure of the 10 largest business groups

Business groups by size	Shareholding ratios		Number of Firms	Equity
	By largest Shareholders	By Groups' Subsidiaries	Open/Closed	Open/Closed
Top 5	13.7%	35.7%	56/187=29.9%	56.6%
Top 10	14.7%	31.7%	139/514=27.0%	56.3%

The genesis of business groups may be explained by many elements. First, in the initial stage of the Republic of Korea's economic development, in which the markets for certain factors of production were not fully established, a particularly important role of entrepreneurship was obtaining and utilizing inputs that were not fully transacted in the market. By nature, however, the supply of entrepreneurship is not elastic. Moreover, it is not exhausted easily, despite repeated use. Because of these peculiarities, economic power is bound to be concentrated in the hands of a few entrepreneurs. Certainly in this regard, the Republic of Korea is no exception.

The concentration of economic power can also be traced to the diversification of business groups. While better manpower and physical resources were concentrated within monopolistic and oligopolistic firms, various structural and institutional barriers protected these firms' initial monopolistic market enclaves. The early monopolists and oligopolists expanded into new markets to make use of their excess capacity in manpower and capital that had accumulated as competitive pressures were eliminated in their already-existing markets.

The Government was also largely responsible for the concentration of economic power. Because strategic industries emphasized by the Government required a huge capacity in technology, capital, manpower, and organization, the jaebol were favoured over other firms. It was then natural that the benefits of the tax, credit and trade policies should accrue primarily to these business groups.

The concentration of corporate ownership, the other side of the issue, resulted to a great extent from the need for capital mobilization. In an economy where the general income level was low, inflation rampant and where other profitable speculative investment opportunities existed, it was extremely difficult for a firm to raise its required capital by issuing stocks to the general public. Furthermore, only rarely were the internal reserves of a firm sufficient to meet capital requirements of new investment projects, especially in capital-intensive industries. Hence, such rapid economic growth with a weak capital base rendered inevitable the high dependence of firms on external financing. As a result of this financing method, the ownership of business groups was not dispersed in the course of their growth. The concentration of ownership was also aggravated by the intercompany shareholding practice mentioned earlier.

The primary advantage enjoyed by business groups lies in synergy, or the economies of scope inherent in multiproduct activities. In the Republic of Korea, this was particularly relevant for the export drive and industrial restructuring of the past couple of decades. The advantages, enjoyed by the jaebol, however, may become disadvantages for other independent firms. For instance, although vertical integration by a business group tends to enhance its internal efficiency, such integration concurrently reduces the size of the market for other firms that had previously supplied this business group.

In comparison to independent firms, a subsidiary of a business group has greater bargaining power and a better market position in product markets and even greater power in factor markets. For example, a subsidiary has advantages in obtaining bank loans as a result of the artificial inflation of the subsidiary's capital base, through its connection with the entire group. Even if a subsidiary is not connected to its sister companies through intercompany shareholding, it can take advantage of the creditworthiness of the entire business group as well as profit from the group's personal contacts.

A subsidiary is, likewise, in a better position to attract high-quality manpower than an independent firm because of its social prestige, job security, and lifetime earnings, all of which may be ascribed to the large size of the business group as a whole. Furthermore, the synergistic effect in advertising and other marketing activities of each business group will induce more consumers to purchase the products of the group's individual subsidiaries. All these factors help a large business group to eliminate smaller independent competitors from the markets of its subsidiaries.

Another negative overall effect often observed in the past is the chain bankruptcy of an entire business group triggered by the financial failure of a subsidiary firm, owing to intercompany shareholding. This financial interdependence tends to build a high exit barrier; scarce economic resources are often inefficiently diverted to rescue a subsidiary from bankruptcy to avoid undesirable side-effects.

Bankruptcy can occur with any firm, but it is far more dangerous in the case of a jaebol.

In addition to these economic consequences, it is also widely held that most business groups have accumulated monopoly profits at the expense of consumers and smaller firms through the help of loans, both domestic and

foreign, and the protection of the Government. Moreover, the general public believes that the jaebol have invested their profits in unproductive sectors such as real estate and have influenced government policy to promote private interests. These negative general perceptions - notwithstanding the issue of whether or not they are justified - have fomented social tension. In conclusion, the concentration of economic power in the Republic of Korea has evolved into an issue with political and social dimensions transcending the simple economic sphere. As a result, the value judgements of individuals are often fused with the objective facts, rendering the whole issue all the more difficult to solve. As will be discussed below, the Government of the Republic of Korea has taken some important steps towards resolving this issue.

B. The evolution of fair trade policies

Although the general picture of industrial organization in the Republic of Korea has been coloured mostly by non-competitive elements, as shown above, related policy issues came to the surface only when the country was hit by the first oil shock in 1974. The severely distorted market mechanism and a sharp increase in the price of imported raw materials entrained inflation and demand-supply imbalances in a large number of markets. In order to tackle this problem, the Government laid heavy emphasis on microeconomic policy in addition to traditional macroeconomic policy mechanisms. In other words, the Government attempted to monitor selected individual product markets and apply pertinent policy measures as needs arose. The Act Concerning Price Stabilization and Fair Trade (hereafter, the "Price Stabilization Act") of 1975 was the legal foundation, for this new economic policy.

The Price Stabilization Act had two objectives, price control and assurance of fair trade practices. In actual implementation, however, price control and prohibition of a few categories of unfair trade practices were stressed. Extensive price regulation for about 150 monopolistic or oligopolistic products was carried out every year until 1979. In addition, a price ceiling system was placed, at the beginning on coal briquettes, and, between 1977 and 1978, on more than 20 items of daily necessity. The categories of items covered by the system were again reduced to only coal briquettes in 1979.

Turning to the restriction of unfair trade practices, 100 cases were investigated between 1976 and 1979. However, almost all of the 85 cases which actually came to be prosecuted were related to hoarding and cornering of markets of staple food products including rice in 1979. In contrast, not a single case of undue restriction of competition was prosecuted. Only one case came to be subject to this stipulation of the law. Paradoxically, the law was used to legalize collective activities in the cement industry four times under the rubric of recession or rationalization cartels.

The Price Stabilization Act had various unexpected side-effects, since it placed heavy emphasis on the regulation of prices, i.e., an element of market performance rather than structural aspects of the market. The direct price control of a wide range of commodities went beyond the limits of administrative capacity and invited a series of problems. Long-lasting price controls severely disturbed the price mechanism and gave rise to such phenomena as dual pricing and deterioration of product quality, as well as

chronic excess demand. Furthermore, most of the regulated firms lost interest in expanding production and consequently put little emphasis on capital investment, which weakened their ability to weather the business cycle. Since prices intermittently climbed sharply in a "stop and go" pattern, consumers could neither have reasonable expectations about prices nor plan their consumption rationally.

This experience, coupled with the aftermath of the second oil crisis, prompted a reappraisal of the past performance of the national economy and led to the general consensus that in the coming decades, the economy should be run by the unfettered functioning of the market mechanism. As the first major effort in this direction, the Fair Trade Act was enacted in April 1981, nullifying direct price regulation under the Price Stabilization Act and setting the comprehensive new "rules of the game" for the market economy - namely, free and fair competition. Therefore, this Act signified a fundamental change in government-business relations and was regarded as the economic constitution for a new era.

Two important issues arose when the Fair Trade Act was being drafted. First, the general principle of letting the market mechanism determine prices could not be upheld unless the market structure was competitive. Since the majority of product markets in the Republic of Korea were monopolistic or oligopolistic in structure, and price stabilization was regarded as the economic goal of the first order, this Act came to specify the prohibition of undue pricing activities by market-dominating firms and of parallel price increases by oligopolists. However, the clause on conscious parallelism was later deleted by the 1986 amendment, because it was believed to lack any theoretical justification.

The second issue was whether or not to use the Fair Trade Act as legal justification for a direct attack on the concentration of economic power. Despite many different opinions when a draft of the Act was under consideration, most believed that the jaebol issue should be addressed. This is averred in the first article of the Act, which identifies the prevention of the "excessive concentration of economic power" as one of the law's purposes. Nevertheless, the Act stopped at regulating business integration which would cause "substantial injury to competition". Furthermore, the Guidelines for Business Integration dealt only with horizontal and vertical integration, omitting conglomerate integration, the most powerful means for the expansion of business groups. Moreover, the concentration of corporate ownership, another facet of economic power, was left intact. However, these lacunae of the Fair Trade Act were filled to some extent by amendments in 1986 and 1990.

The provisions of the Fair Trade Act forbade the abuse of a market-dominating position. They restricted business integration, prohibited holding companies and cross investment between mother and daughter firms, limited the equity investment of big business groups, forbade collusive activities, prohibited unfair business practices and regulated international business contracts.

Before discussing the implementation of the Act against various types of anti-competitive activities and unfair practices, it should be pointed out, as one of its peculiarities, that this Act required other government authorities

to consult with the Minister of the Economic Planning Board, when they wished to introduce, amend or enact any laws, decrees, and administrative measures that might restrain competition. During the 1981 to 1989 period, there were 450 cases of consultations, of which 145 were rectified; more specifically, 99 out of 370 laws and decrees, and 46 out of 80 administrative measures.

First of all, the Fair Trade Act has prohibited the abuse of a market-dominating position. A market-dominating position refers to a firm meeting the following condition: either the share of the largest firm is greater than 50 per cent (monopoly) or the combined share of the top three firms is greater than 75 per cent (duopoly and oligopoly) in a market with total domestic sales amounting to more than approximately $US 45 million in the previous year. The FTC has designated "market-dominating firms" according to these criteria, annually.

Table 13 shows data for only two benchmark years, 1981 and 1990. One of the reasons for the sharp increase in the number of firms in this category is that the criterion of market size in terms of total domestic sales remains unaltered despite general price increases. Of 293 market-dominating firms designated in 1990, 25 were monopolist, 86 duopolist, and 182 oligopolist in 59 markets. In spite of the increasing number of market-dominating firms, only 10 firms were found to have abused their dominating positions: nine of them in hampering the business activities of other firms through false allegations and tying arrangements, and one in predatory pricing.

Table 13. Trends in market dominating firms

	1981		1990	
	markets	firms	markets	firms
Food & beverages	12	33	27	66
Textiles & fibre	1	2	1	3
Paper & paper products	2	6	5	14
Chemicals, petroleum & plastic products	5	12	34	71
Non-ferrous metals	2	4	3	5
Basic metals	9	15	17	34
Fabricated metals, machinery and equipment	11	30	38	97
Other manufacturing industries	-	-	1	2
Air transportation	-	-	1	1
TOTAL	42	102	127	293

The Act restricts integration by firms whose equity capital exceeds roughly $US 1.5 million or whose total assets exceed approximately $US 7 million if the firm may cause substantial injury to competition in any line of commerce. Given the anti-competitive effect, exceptions may be made for business

integration aimed at rationalization or strengthening the international competitiveness of an industry. This implies that, as clearly stated in its Article 1, the Fair Trade Act aims at the balanced development of the national economy rather than the unconditional pursuit of ideal competition.

A unique characteristic of this Act is that in addition to typical methods of business integration, such as stock or asset acquisition, mergers and interlocking directorate, it designates the establishment of new enterprises as a method of business integration. This is a response to the fact that, as mentioned earlier, more firms were newly established than the number which merged in the rapidly growing economy of the Republic of Korea. A meaningful and effective competition policy should take this finding into consideration.

Out of 1,846 cases of business integration reported up to 1989, the FTC issued 293 warnings for correction, two recommendations for correction, and seven orders to cease and desist. In terms of the type of business integration, 491 were considered horizontal, 349 vertical and 1,006 conglomerate. As earlier indicated, conglomerate integration has not been controlled and the Guidelines for Business Integration are currently being revised to include this feature.

Classifying by method of integration, 799 were through stock acquisition, 460 through the establishment of new firms, 276 through mergers, 186 through an interlocking directorate and 125 through asset acquisition. Most business combinations occurred in the manufacturing industry - 1,135 (61.5 per cent) in manufacturing, 181 (9.7 per cent) in transportation and warehousing, 164 (8.8 per cent) in construction, 134 (7.6 per cent) in wholesale and retailing, 31 (1.6 per cent) in restaurants and hotels, and 201 (10.8 per cent) in others (including financial services). Table 14 shows that among many different motives for business integration, diversification became more important, Whereas the improvement of the financial structure lost its predominance.

Table 14. Motives for business combinations

	1981	1989	1981-89
Diversification	14	50	464
	(9.5)	(25.9)	(25.1)
Improvement of the financial structure	84	23	484
	(56.8)	(11.9)	(26.2)
Rationalization of production processes	20	8	126
	(13.5)	(4.1)	(6.8)
Upgrading of the distribution system	9	9	75
	(6.1)	(4.7)	(4.0)
Liquidation of failing firms	7	3	85
	(4.7)	(1.6)	(4.6)
Disintegration	1	15	44
	(0.7)	(7.8)	(2.4)
Others	13	85	568
	(8.8)	(44.5)	(30.9)
TOTAL	148	193	1,846

Note: Figures in parentheses are percentage shares.

In addition to the restriction on business integration, the Fair Trade Act has provided for several specific measures to deconcentrate corporate ownership. Primarily, holding companies are prohibited and, thus far, three cases have been rectified. Direct cross-ownership between a parent and a daughter company belonging to a "large business group" is also prohibited. Although this type of intercompany linkage was not common in the Republic of Korea, 20 cases were remedied. Most Korean business groups have grown through intercompany shareholding, which can take either one or all of the radial, circular or matrix forms. Since it is extremely difficult to disentangle the complicated web of intercompany shareholding, the Act stipulates that any subsidiary of a large business group may neither obtain nor hold shares of other domestic firms, in excess of 40 per cent of its net assets.

In order to enforce the control on cross-ownership, the FTC has annually designated large business groups whose total assets exceeded $US 5.5 billion, which amounted to 43 groups in 1990. As mentioned earlier, the average intercompany shareholding ratio for the 30 largest business groups was 46.5 per cent in 1984 when no such restriction existed, but in 1989, this ratio for 43 groups as a whole had dropped to 31.5 per cent, far lower than the legally-set minimum level. In view of anticipated capital liberalization in the early 1990s, it will be an important issue to determine the optimal level of cross-ownership, especially in view of the possibility of takeovers by foreign firms. Additionally, subsidiaries of large business groups which engage in banking and insurance are also subject to this constraint; moreover, they may not exercise their voting rights in domestic firms in which they have invested.

The Fair Trade Act prohibits collective activities of firms, or cartels, which would substantially restrict competition in any line of commerce. The types of prohibited collective activities include cartels on prices, sales conditions, production and sales quotas, customers and market areas, production facilities and equipment, specialization, and joint ventures for collective management. However, the FTC can permit cartels deemed necessary for achieving industrial rationalization, overcoming cyclical recessions, facilitating industrial restructuring, enhancing the competitive strength of small- and medium-sized firms and rationalizing the terms of transactions. Up to 1989, 64 undue collective activities were remedied: 29 on prices, 14 on quotas, 10 on market areas, 6 on sales conditions, and 5 on specialization.

The Act also prohibits a number of unfair business practices, both of general and special categories. For the general category of unfair business practices, the FTC rectified 415 cases during the 1981-1989 period: 175 on false, exaggerated and misleading advertising, 121 on the abuses of advantageous position including coerced sales and forced offering of economic benefits, 18 on the refusal to deal, 35 on undue restriction of transactions such as exclusive dealing and territorial restriction, 66 on tie-in sales, price discrimination, boycott and other unfair practices. For special categories, the FTC corrected 194 cases on undue discount sales and 94 cases on the excessive offering of premiums on sales.

The FTC prohibits resale price maintenance as a special type of unfair business practice or a vertical restraint. This provision will be waived, however, for publications specified under the Copyright Act. Additionally, it

may not be applied to commodities which meet the following conditions: (a) their qualities can be recognized easily as identical; (b) they are for daily use by general consumers; and (c) free competition prevails in their markets. Up to 1989, 44 cases were corrected for resale price maintenance.

It was stated earlier that the Fair Trade Act had jurisdiction over international contracts between Korean firms and their foreign counterparts, insofar as concerned their undue collective activities and unfair business practices. Furthermore, the Act is applied not only to individual firms but also to trade associations. As mentioned before, trade associations have engaged rather extensively in various types of anti-competitive and unfair business practices. As of the end of 1989, there were 1,026 trade associations, a sharp increase over the 467 in 1970; of which 463 in manufacturing, 207 in wholesale, retailing, restaurants and hotels, 189 in social and personal services, 125 in transportation and warehousing, 27 in construction, 14 in financing, insurance, real estate and business services, and 1 in electricity and gas. Of these, 347 were organized by the Act for Small- and Medium-Sized Firms, and 331 by other special laws. In the 1981-1989 period, a total of 147 cases were recorded for the violation of the Act by trade associations: 64 on the restraint of competition, 36 on limiting the number of firms, 26 on unfair business practices and resale price maintenance, 21 on restricting the business activities of member firms.

Last but not least, as part of fair trade policy, the FTC administers the Act Concerning Fair Subcontracting Transactions of 1984 (hereafter the "Subcontracting Act"). Before this Act was enforced, subcontracting transactions were regulated, partially and separately, by individual laws for certain industries such as construction and electrical works. At the same time, the Act for Promoting Subsidiarization of Small- and Medium-Sized Firms of 1975 was not effective in preventing unfair practices in subcontracting. Moreover, while the original Fair Trade Act had also been applied to unfair subcontracting transactions it was inadequate for penalizing such violations through its provisions under the general category of unfair business practices.

The Subcontracting Act, incorporating and strengthening the related provisions in these laws, was enacted to guarantee fair transactions, especially between large order-placing firms and small- and medium-sized subcontractors. Between 1985 and 1989, the FTC had corrected a total of 560 subcontracting transactions: 238 in manufacturing and 302 in construction. For prompt enforcement of the Act, the FTC has also delegated some of its cases to the two committees for Reconciling Disputes in Subcontracting Transactions, for manufacturing and construction, respectively. During the 1985-1989 period, these committees successfully resolved 183 disputes and transferred 82 unresolved cases to the FTC.

Upon a closer look at the 1987-1989 period (chosen partly because of a lack of previous data), 488 cases (223 in manufacturing and 265 in construction) were corrected as unfair subcontracting transactions for the following reasons: 277 defaults of payment, 94 delays of payment, 58 refusals to issue required documents, 10 undue reductions in payment, 7 defaults of advance payment, and 42 other unfair practices. The sheer number of cases rectified may belie the fact that, in general, disadvantaged subcontractors are not willing to venture the risk of retaliation by bringing charges of

unfair practices against large firms. Since fair trade cannot be maintained through the mere enactment of a law, greater efforts should be exerted to foster an environment in which all firms, particularly large ones, voluntarily observe the spirit of the Subcontracting Act.

IV. CONCLUDING REMARKS

In this paper some important aspects of corporate policies in the Republic of Korea have been reviewed with special reference to restrictive business practices. The evolutionary path of such policies may be described concisely as making steady progress toward overall economic liberalization commensurate with a free market economy. In retrospect, it may be considered as an outcome of natural historical dynamism as well as one of deliberate choices made in response to changing conditions. In this resource-poor country, the government-led rapid economic growth inevitably resulted in extensive government intervention, and highly concentrated market structure and corporate ownership. The political regimes which had engineered such policy and had received partial justification through the economy's performance were characterized by authoritarianism.

As mentioned earlier in the Introduction, this politico-economic system had reached its limits towards the end of the 1970s. The Government of the Republic of Korea realized that it should bring the country into a new economic system respecting the working of the free-market mechanism and the freedom of the people to make their own decisions. In the area of corporate policies, the Government energetically promoted liberalization or competition both on the domestic and foreign fronts. This reorientation of economic policy, as part of a move toward "economic democratization", accelerated since political democratization started to gain momentum in 1988. The corporate policies reviewed here are conspicuous examples of such a change. This fact points to the "truth" that politics and the economy are two sides of the same coin. In other words, a competitive economic order cannot be separated from a democratic political system, since both are based on the same philosophy and logic.

One may regard monopoly and competition as alternative types of market structure, especially in a small developing economy. The structure of a market is determined, among other factors, by its size and the state of technology available. One cannot make the choice between monopoly and competition a policy variable. Moreover, monopoly cannot be sustained long, unless dictated by laws or administrative orders. The Korean experience clearly demonstrates that competition supersedes monopoly as an inevitable consequence of economic development.

It is sometimes argued that monopoly is necessary to obtain efficiency, whereas competition tends to be wasteful in the early stage of economic development. Although the logic of this argument may not be entirely denied, it should be noted that eventually "artificial" monopoly not only hampers economic efficiency itself but, more importantly, discourages the competitive spirit of society that is the real engine of economic growth. Monopolization by government intervention may give rise to that community of interest and concommitant "government failures" which cannot be eliminated easily in a society marked by traditional communitarianism and bureaucratic

authoritarianism. Competition policy or fair trade policy, should, therefore, be assigned a foremost position on the agenda for long-run, self-sustaining economic growth. Unless the general public is market-minded, market-oriented economic policy cannot succeed.

Before concluding this paper, it would seem appropriate to discuss briefly several tasks for the country's future competition policy, putting aside minor and technical issues. They may be important tasks not only for the Republic of Korea but also for other countries wishing to enforce an effective competition policy.

Firstly, in light of its multifaceted, complex nature, the issue of the concentration of economic power must be tackled through steady implementation of a comprehensive policy, including not only strict enforcement of the Fair Trade Act but also reformulation of other measures related to business licensing, tax, financing, and trade. In addition to these measures to eliminate the major concentratons of economic power, more competitive pressures should be imposed on business groups by removing the barriers to entry by domestic and foreign firms, while the countervailing power of small- and medium-sized firms, labour unions and consumers will need to be augmented. These measures can force business groups to disengage from anti-competitive or ineffecient market conduct.

Secondly, regulation or deregulation must be continuously reviewed in response to ever-changing technologies. What, when and how to deregulate should be discussed in an open forum to eliminate the undue influence of private interests of the parties involved, whether public or private. Deregulation should, in principle, be simultaneously enforced across all industries concerned. Otherwise, resource reallocation will be concentrated in a few deregulated industries. Attempts should be made to minimize adjustment costs to producers and consumers who will be adversely and directly affected by deregulation. Deregulation must also be enforced in close step with import liberalization, since both measures serve to open a market for competition. Such deregulation will be more important in view of the Uruguay Round. Deregulation does not imply simple laissez-faire, however. On the contrary, fair trade policy must be strengthened to guard against the abusive conduct of market-dominating firms.

Thirdly, competition policy, while based on the Fair Trade Act, must also be coordinated with other policies. In so far as this policy provides the most fundamental framework for market order and also contains elements of general industrial policy, other industrial laws such as the Industrial Development Act, the Copyright Act and the Patent Act must be recast and enforced within the boundaries set by this Act. Currently, activities "justifiable" by such laws are exempted from the Fair Trade Act. In a similar vein, external trade policy must be harmonized with internal competition policy. An attempt to distinguish between the two policies will be futile in the open economy. Similarly, on the international front, competition policies of different countries must be coordinated in order to apply, as far as possible, uniform rules and exchange information on the market conduct of firms across countries. Such cooperation becomes more important as more firms, multinationals in particular, expand their business activities on a global scale.